

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

JOSEPH J. RUIZ,

Plaintiff,

vs.

No. CIV 12-0521 JB/LFG

KAREN EDENFIED, Warden,  
FCI Big Spring; JORGE PARTIDA,  
MD, FCI Big Spring; and ERIC HOLDER,  
U.S. Attorney General,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**  
**BUT ALLOWING PLAINTIFF TO FILE AMENDED COMPLAINT**

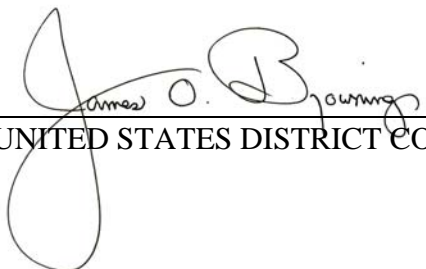
**THIS MATTER** comes before the Court on the Magistrate Judge's Report and Recommendation, filed September 5, 2012 (Doc. 17)(“R&R”). The Honorable Lorenzo F. Garcia, United States Magistrate Judge, recommends that the Court dismiss Plaintiff Joseph J. Ruiz’s Amended Complaint, filed May 17, 2012 (Doc. 3), without prejudice, or alternatively, allow him to file another amended complaint to name the sole proper party Defendant, see R&R at 3-4 . On September 24, 2012, Ruiz filed objections. See Objections to Report and Recommendation, filed Sep. 24, 2012, (Doc. 20)(“Objections”).

The Court conducted a *de novo* review of those portions of Judge Garcia’s R&R to which Ruiz objects. In his Objections, Ruiz states that he inadvertently omitted the United States of America as a party Defendant and now understands that the United States is the proper Defendant. In addition, Ruiz notes that he has retained counsel, who now represents him in this matter.

Ruiz asks that the Court deny the recommendation to dismiss, without prejudice, and that he be allowed to file an amended complaint naming the proper Defendant. Having found good grounds to allow the amendment, the Court adopts the R&R to the extent that Ruiz is allowed to file an

amended complaint naming the proper Defendant within twenty days after entry of this Order.

**IT IS ORDERED** that the Magistrate Judge's Report and Recommendation is granted to the extent the Plaintiff Joseph J. Ruiz is allowed to file an amended complaint naming the proper Defendant within twenty days after this Order.



UNITED STATES DISTRICT COURT

*Counsel*

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*Counsel for Plaintiff Joseph J. Ruiz*

Jan Elizabeth Mitchell  
Assistant United States Attorney  
United States Attorneys Office  
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*Counsel for Defendants Karen Edenfied, Jorge Partida, and Eric Holder*